

McNAMARA, DODGE, NEY, BEATTY, SLATTERY, PFALZER, BORGES & BROTHERS LLP
 ATTORNEYS AT LAW
 P.O. BOX 5288, WALNUT CREEK, CA 94596
 TELEPHONE: (925) 939-5330

JAMES V. FITZGERALD, III (State Bar No. 55632)
 NOAH G. BLECHMAN (State Bar No. 197167)
 McNAMARA, DODGE, NEY, BEATTY, SLATTERY,
 PFALZER, BORGES & BROTHERS LLP
 1211 Newell Avenue
 Post Office Box 5288
 Walnut Creek, CA 94596
 Telephone: (925) 939-5330
 Facsimile: (925) 939-0203

Attorneys for Defendants
 COUNTY OF CONTRA COSTA, a municipal corporation,
 WARREN RUPF in his official capacity as sheriff for the
 CONTRA COSTA COUNTY SHERIFF'S DEPARTMENT;
 DEPUTY IAN JONES, individually and in his capacity as
 deputy sheriff for the CONTRA COSTA COUNTY SHERIFF'S
 DEPARTMENT; DEPUTY MARK JOHNSON, individually
 and in his official capacity as a deputy sheriff for the COUNTY
 OF CONTRA COSTA, and CITY OF OAKLEY, a municipal
 corporation

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

NICK BRENNAN, individually and as
 executor of the ESTATE OF JAMES
 BRENNAN; MATT BRENNAN; TED
 BRENNAN; S.B., a minor, by and through
 her Guardian Ad Litem, ELIZABETH
 MALONE,

Plaintiffs,

vs.

COUNTY OF CONTRA COSTA, a
 municipal corporation, WARREN RUPF in
 his official capacity as sheriff for the
 CONTRA COSTA COUNTY SHERIFF'S
 DEPARTMENT; DEPUTY IAN JONES,
 individually and in his capacity as deputy
 sheriff for the CONTRA COSTA
 COUNTY SHERIFF'S DEPARTMENT;
 DEPUTY MARK JOHNSON, individually
 and in his official capacity as a deputy
 sheriff for the COUNTY OF CONTRA
 COSTA; CITY OF OAKLEY, a municipal
 corporation; CHRIS THORSEN in his
 official capacity as chief of police for CITY
 OF OAKLEY; and DOES 1-100, inclusive,

Defendants.

Case No. C08-05360 JCS

AMENDED STIPULATION AND
~~(PROPOSED)~~ ORDER CONTINUING
CASE MANAGEMENT ORDER
DEADLINES

Trial Date: June 7, 2010

Judge: Hon. Joseph C. Spero

1 IT IS HEREBY STIPULATED between the parties as follows:

2 WHEREAS by Pretrial Order ("Order") dated 3/25/09 (Document No. 27), non-expert and
3 expert discovery deadlines as well as dispositive motion hearing deadline, pretrial and trial dates
4 were initially set in this case;

5 WHEREAS per that Order, fact discovery is scheduled to close on November 20, 2009,
6 expert disclosures are due December 4, 2009, and the dispositive motions should be heard no later
7 than February 26, 2010. The trial of this matter is set for June 7, 2010;

8 WHEREAS the parties have diligently proceeded with discovery in this matter. Recently,
9 the parties completed written responses to discovery. Plaintiffs produced a litany of discovery
10 responses and documents in this matter. Further, Defendants have produced over 1,600 pages of
11 documents in discovery.

12 WHEREAS the parties are currently scheduled to participate in a mediation in this matter
13 on October 21, 2009, the first such mediation in this matter. The parties are also schedule for a
14 further case management conference in this matter on October 23, 2009.

15 WHEREAS Plaintiffs have reviewed Defendants' voluminous production of documents
16 which has revealed numerous additional witnesses that Plaintiffs were not previously aware of.
17 In addition, Plaintiffs intend to seek leave to amend the complaint to add three additional officers
18 who allegedly used force during the arrest of Plaintiff Matt Brennan. The Plaintiffs are
19 evaluating the number of depositions to take in relation to these approximately 9-10 newly
20 identified witnesses, not including any named Defendants. Defendants estimate that they will
21 need to take approximately 5-7 depositions. Plaintiffs herein also seek leave to take more than
22 the allotted 10 depositions per F.R.C.P., and up to 15 depositions without further leave of Court.

23 WHEREAS the parties will be setting numerous party witness depositions and numerous
24 other percipient witness depositions to occur in November, December and January. Due to the
25 upcoming holidays in those months, it is likely that all of these depositions will not be completed
26 until January/February of 2010. In addition, both counsel have upcoming trials in the latter half
27 of November of 2009 and the middle of January of 2010.
28

WHEREAS the parties are concerned that they will not be able to complete fact discovery by the current set deadline of November 20th due to these circumstances and their best efforts and the parties may also need additional time for expert disclosures and the filing and hearing of dispositive motions.

WHEREAS counsel on both sides of this matter have met and conferred to come up with a revised schedule to the Order in relation to such discovery issues, a plan that will not impact the current trial date of June 7, 2010.

WHEREAS the parties have not previously continued the discovery dates included in the Court's Order and have only obtained a three month continuance of the ADR deadline to allow more time to gather information and evidence prior to the mediation. This present request will not affect the current trial and pre-trial dates in this matter.

Good cause is present to extend the currently set deadlines as follows:

<u>Deadline Description</u>	<u>Current Date</u>	<u>Proposed Modified Date</u>
Close of Non-Expert Discovery	11-20-09	1-21-10
Expert Disclosure	12-4-09	2-12-10
Rebuttal Expert Disclosure	12-18-09	2-22-10
Close of Expert Discovery	1-15-10	3-19-10
Last Day to Hear Dispositive Motions	2-26-10	No change.
Pretrial Conference	5-28-10	No change.
Trial Date	6-7-10	No change.

IT IS SO STIPULATED.

Respectfully submitted,

McNAMARA, DODGE, NEY, BEATTY, SLATTERY, PFALZER, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

Dated: October _14_, 2009

McNAMARA, DODGE, NEY, BEATTY, SLATTERY,
PFALZER, BORGES & BROTHERS LLP

By: /s/ James V. Fitzgerald, III

James V. Fitzgerald, III / Noah G. Blechman
Attorneys for Defendants

COUNTY OF CONTRA COSTA, a municipal
corporation, WARREN RUPF in his official capacity as
sheriff for the CONTRA COSTA COUNTY
SHERIFF'S DEPARTMENT; DEPUTY IAN JONES,
individually and in his capacity as deputy sheriff for the
CONTRA COSTA COUNTY SHERIFF'S
DEPARTMENT; DEPUTY MARK JOHNSON,
individually and in his official capacity as a deputy
sheriff for the COUNTY OF CONTRA COSTA, and
CITY OF OAKLEY, a municipal corporation

Dated: October _14_, 2009

LAW OFFICES OF JOHN BURRIS

By: /s/ Ben Nisenbaum

John L. Burris, Esq. / Ben Nisenbaum, Esq.
Attorney for Plaintiffs

NICK BRENNAN, individually and as executor of
the ESTATE OF JAMES BRENNAN; MATT
BRENNAN; TED BRENNAN; S.B., a minor, by
and through her Guardian Ad Litem, ELIZABETH
MALONE

///

ORDER

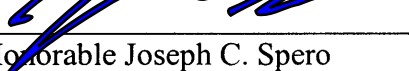
The parties have demonstrated good cause to modify the Court's original Case Management Order of March 25, 2009 (Document No. 27), as follows:

<u>Deadline Description</u>	<u>New Deadline Date</u>
Close of Non-Expert Discovery	1-21-10
Expert Disclosure	2-12-10
Rebuttal Expert Disclosure	2-22-10
Close of Expert Discovery	3-19-10
Last Day to Hear Dispositive Motions	No change (2-26-10).
Pretrial Conference	No change (5-28-10).
Trial Date	No change (6-7-10).

In addition, Plaintiffs are granted leave to take up to 15 depositions in this matter. Any additional depositions by Plaintiffs above that level need to be per written leave of Court.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: October 16, 2009

By: 
Honorable Joseph C. Spero
United States District Court Magistrate Judge

McNAMARA, DODGE, NEY, BEATTY, SLATTERY, PFALZER, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330